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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

- - - - - x
In re: : Chapter 11
:
Circuit City Stores, Inc., : Case No. 08-35653(KRH)
et al., :
:
Debtors. : Jointly Administered
- - - - - x

**DEBTORS' OBJECTION TO SCHIMENTI CONSTRUCTION
COMPANY, LLC'S MOTION FOR EXAMINATION AND
ORDER DIRECTING DEBTOR, CIRCUIT CITY STORES, INC.,
TO PRODUCE DOCUMENTS PURSUANT TO
FEDERAL RULE OF BANKRUPTCY PROCEDURE RULE 2004**

The debtors and debtors in possession in the above-
captioned jointly administered cases (collectively, the
"Debtors"),¹ hereby submit this objection (the "Objection")

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing

to Schimenti Construction Company, LLC's ("Schimenti") Motion for Examination and Order Directing Debtor, Circuit City Stores, Inc., to Produce Documents Pursuant to Federal Rule of Bankruptcy Procedure Rule 2004 and Memorandum in Support Thereof (the "Motion")(Docket No. 3591). In support of the Objection, the Debtors respectfully state as follows:

1. On June 12, 2009 Schimenti Construction Company, LLC (the "Movant") filed the Motion alleging that examination of the Debtor is necessary for Movant

to determine whether the lease agreements for the North Plainfield Store and/or New York Store or any other agreements by and between the Debtor and any other party, including any lenders, provided for allowances or credits for the work performed by [Movant]; and to determine whether the Debtor, pursuant to applicable law and/or contract, properly segregated funds held for the benefit of [Movant] and its subcontractors and suppliers.

Motion at ¶ 7.

2. The Movant also requests a broad document production, as well as a deposition to be held on June 30, 2009. The document request includes twenty-nine (29)

Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc.(6796), Sky Venture Corp. (0311), PRAHS, Inc.(n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address was 9950 Mayland Drive, Richmond, Virginia 23233 and currently is 4951 Lake Brook Drive, Glen Allen, VA 23060.

paragraphs and categories of documents. The deposition request asks that the Debtors produce a witness to testify with respect to the Debtors' relationships with the Movant and the landlords for the North Plainfield Store, the New York Store, and the Debtors' leasing, financing, design, construction, and operations of the North Plainfield Store and the New York Store and other related topics.

3. The relief requested in the Motion is overbroad and unduly burdensome on its face and appears to predominantly involve a dispute between the Movant and third parties and/or an effort by the Movant to prematurely accelerate a determination of the validity, priority, and extent of its claims. Moreover, the Debtors have extremely limited resources and personnel to respond to the relief requested in the Motion, and certainly do not have the resources to respond in the timeframe suggested by the Motion which is unnecessary.

4. Although Federal Rule of Bankruptcy Procedure 2004 is broad, it is not limitless. See, e.g., Snyder v. Society Bank, 181 B.R. 40 (Bankr. S.D. Tex. 1994) (finding that examinations under Rule 2004 cannot be used to harass or oppress the party and that it is an abuse of Rule 2004 solely to further a non-bankruptcy court cause of action between

third parties); In re Fearn, 96 B.R. 135 (Bankr. S.D. Ohio 1989) (finding that a Rule 2004 examination should not so broad as to be more disruptive and costly to the party examined than to the party seeking discovery).

5. The Debtors remain willing to negotiate with the Movant regarding form, content, scope and timing of any reasonable document production or deposition to address any legitimate needs of Movant for information from the Debtors. However, the relief requested in the Motion as currently drafted is clearly overbroad, unduly burdensome and premature given the status of the Debtors' bankruptcy cases.

6. The Debtors request a preliminary hearing on the Motion to be scheduled no earlier than July 23, 2009. There is simply no urgency with respect to the relief sought in the Motion because it apparently involves the Movant's efforts to litigate with third parties or to prematurely accelerate a determination of the validity, priority, and amount of the Movant's claims in these bankruptcy cases.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court (i) sustain this Objection, (ii) deny the relief requested in the Motion and (iii) grant the Debtors such other and further relief as is just and proper.

Dated: June 22, 2009
Richmond, Virginia

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